IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.MC.No. 2008 of 2007()

CC.289/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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PETITIONER: 2ND ACCUSED:

CYRIL D.V.,
KALLASSERIL, T.C.13, 604(3), KALAVIHAR NAGAR,
K.V 44A, KUNNUKUZHY, TRIVANDRUM.

BY ADV. SMT.A.SALINI LAL

RESPONDENTS: STATE & COMPLAINANTS:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
(R. JAYASHANKAR), MUSEUM POLICE STATION,
THIRUVANANTHAPURAM.

3. RAVEENDRANATH,
MALLOOR VEETTIL, ANAYARA P.O., KADAKAMPALLY WARD,
THIRUVANANTHAPURAM.

4. UDAYA MOHAN,
VAYALIL VEETTIL, T.C.11/637, NANDANCODE,
THIRUVANANTHAPURAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C.NO. 2008 OF 2007

Dated this the 22nd day of June, 2007

ORDER

The petitioner is the 2nd accused in C.C.No.289/03 pending before the learned Judicial First Class Magistrate Court-III, Thiruvananthapuram. A colleague of his is the 1st accused. C.C.No.289/03 and C.C.No.308/03 are in the nature of case and counter case. It is submitted that both cases arose out of some union rivalry between the two groups of workmen. Both cases are pending. They have not been taken up for disposal even though the crimes were registered as early as in 2001 and the cases were registered in 2003. Now the parties have settled their disputes. The petitioner has very urgent necessity to get a passport issued in his name. His daughter, who is in the U.K., is pregnant and delivery is expected to take place in the first week of July, 2007. The petitioner along with his wife has to proceed to U.K. to attend on their daughter.

Some complications have been identified and they have been advised to proceed to U.K. immediately. The petitioner does not have a passport. He wants to apply for a passport to enable him to reach U.K. in time to attend on his daughter. If a criminal case is pending, passport will not be issued unless a No Objection Certificate is issued by the Magistrate. In these circumstances, there is urgent necessity to get the cases disposed of. The matter was settled and an application was filed before the learned Magistrate. The same is dismissed by Annexure-5 order. The petitioner has rushed to this Court with this petition. Alternative prayers are made. Either both cases may be directed to be disposed of forthwith or a No Objection Certificate may be directed to be issued to facilitate filing of an application for passport.

2. The respondent/the de facto complainant has also appeared before this Court along with counsel to confirm that the matter has been settled between the parties. Both counsel submit that they shall appear along with all the crucial witnesses before the learned Magistrate tomorrow.

3. Having considered all the relevant circumstances, I am satisfied that a direction can be issued to the learned Magistrate

to examine the witnesses and dispose of C.C.Nos.289 and 308/03 as expeditiously as possible. I expect the learned Magistrate to dispose of the case by Monday – 25/6/2007, if possible. If for any reason such disposal is not possible, the petitioner can apply to the learned Magistrate for issue of a No Objection Certificate to facilitate the issue of a passport in his name. Appropriate orders shall be passed by the learned Magistrate. If the material witnesses have been examined by then and there is no incriminating evidence against the petitioner, the No Objection Certificate can be issued by the learned Magistrate.

4. With the above observations, this Crl.M.C. is allowed in part.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R. BASANT, JUDGE)

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